

**City of San Diego Park & Recreation Department  
Tierrasanta Open Space Maintenance Assessment District (MAD)  
Tierrasanta Open Space Committee  
7 pm at Tierrasanta Recreation Center • 11220 Clairemont Mesa Blvd.**

**Agenda for November 4, 2015 Meeting**

The Tierrasanta Open Space Committee is advisory to the City of San Diego Open Space Division on matters related to the Tierrasanta Open Space Maintenance Assessment District.

Voting members: Deanna Spehn\* (Chair), Jennifer Schultz\* (Secretary), Jerry Bierman, Lee Campbell, Teresa Clowes, Roberta Froome, John Hopper, Dawn Lostritto-Nielsen, Russ May\*, Bob Muldrew, Betty Ogilvie, Mike Ogilvie, Dick Rees, Rich Thesing\*, Justin DeCesare\* (President, Tierrasanta Community Council).

City Staff: Bob Smith, Ray Garcia, Paul Sirois

**Agenda**

*Voting members may take action on any item on the agenda*

7:00 pm      Chair Deanna Spehn will call the meeting to order and establish that a quorum is present, followed by introductions of those present and agenda review.

1. Non-agenda public comment (limited to 3 minutes per person)
2. Approval of October 7, 2015 Draft Minutes (under separate cover)
3. Presentation on Draft Budget for FY17 Tierrasanta Open Space Maintenance Assessment District
4. Staff Report for November 4, 2015 meeting (see attached) – Bob Smith
5. Draft changes proposed by the City of San Diego’s Economic Development to the Municipal Code and Council Policies – see 5 attached documents. The City of San Diego’s Public Safety and Livable Neighborhood Services Committee on November 12, 2015 at 2 pm will consider the proposed changes and vote to approve language and forward on to the full City Council. The Tierrasanta Open Space Committee has been asked to provide its input into the draft language so that its recommendations may be considered by the City Council Committee.
6. Update: Results of recent meeting on “jogging trail” in Shepherd Canyon with Environmental Biologist Sean Paver from the City’s Public Utilities Division

**From:** Paver, Sean  
**Sent:** Friday, October 30, 2015 1:52 PM  
**To:** Smith, Robert  
**Cc:** Zemen, Sheldon; Kilburg, Paul  
**Subject:** East Shepherd Canyon Access Path

Bob,

It was great meeting you out at the site today and seeing the condition of the service road firsthand. As I mentioned when we were walking the path, overall the service road looks to be in great shape. For our Department, our primary concern is to ensure we have access by foot or vehicle to every manhole. In the trail's current condition our vehicles can easily access all of the necessary manholes.

There is one area, near the western end of the path where part of the service road has been partially eroded away. Unfortunately this area is a wetland and considered an environmentally sensitive resource. This means that in order to do any work in this area the project proponent would have to gain approval/permits from the San Diego Regional Water Quality Control Board, California Department of Fish and Wildlife, and U.S. Army Corps of Engineers; this is a costly and time consuming process. Since we can currently access all of our infrastructure without improving/repairing this section of path, it is not in the best interest of our Department to embark on such a costly project.

Also, in the future if any of the paths do become degraded to the point that prevents us from accessing our infrastructure, we will work with you and your Department to repair the service roads to a usable condition. Please let me know if you have any questions or need anything else.

Thank you,

**Sean Paver**  
Environmental Biologist  
Engineering and Program Management Division  
City of San Diego / Public Utilities Department

7. Update re: Tierrasanta Foundation and Tierrasanta Open Space Inspector Bob Smith re: placement of benches in the open space, etc.
8. In response to vehicular damage to Roadrunner Park, Treebeard has submitted a bid and drawing (see attached) for improvements to reduce vehicular access to the park area

9. Status of Dishwasher Pond – Helix Study: Per an October 27, 2015 email from Helix re: Feasibility Analysis of Pond Restoration, “HELIX will develop a work plan and cost estimate for the planning, permitting, implementation and mitigation of the restoration of Dishwasher Pond. The project is expected to require a Site Development Permit from the City and wetland permits from state and federal resource agencies. HELIX will provide a detailed cost proposal for the project.”
10. Status of trails system & Helix environmental study status and timeline: federal and state resource agencies continue to evaluate the draft study prepared by Helix
11. Drought & use of water in Tierrasanta: any changes in watering times/schedules?
12. Update on activities by the Friends of Tierrasanta Canyons
13. New Business – to be referred to a future noticed meeting of the Tierrasanta Open Space Committee
14. Adjournment Next meeting: January 6, 2016 – 7 pm Tierrasanta Recreation Center, 11220 Clairemont Mesa Blvd. No meeting in December 2015

**Email from Paul Sirois to Chairs of the City of San Diego Open Space Maintenance Assessment Districts sent on Monday, October 19, 2015 with the 5 attachments that are included in the agenda for November 4<sup>th</sup> meeting. TOSMD Chair Deanna Spehn received this document and distributed a copy with attachments to the Tierrasanta Open Space Committee distribution list. Spehn requested that the matter be continued for at least 30 days from the proposed October 28<sup>th</sup> Council Committee meeting so that the city's Maintenance Assessment District advisory committees could meet and provide their input into the process. A conference call with the city's Economic Development Director David Graham was held on Friday, October 23<sup>rd</sup> on which Spehn participated, reiterating her request for a one month delay. The PS&LNS Committee will now consider the proposed changes at 2 pm on November 12, 2015.**

This email is being sent to the various Park and Recreation MAD Advisory Committees to allow for review and comment regarding proposed changes to the Municipal Code and Council Policy. The Economic Development and Park and Recreation Departments have been working on changes to these governing documents for some time and want to make these proposed amendments available to the various committees for review and input prior to release during upcoming public meetings.

Please take the time to review these documents and provide comments and/or plan on attending the Public Safety and Livable Neighborhood Services Committee meeting on October 28 at 2pm in the City Administration Bldg at 202 C St 12<sup>th</sup> Floor or at a publicly noticed meeting on Tuesday October 27 at 2pm in the Glass Room of the Community Concourse 202 C St –Terrace Level.

The original and draft documents with changes are attached and below is a basic summary of the proposed changes.

City staff has identified inconsistencies in the City's Municipal Code pertaining to Maintenance Assessment Districts and state law. Staff seeks to rectify such inconsistencies and to update provisions regarding establishment and management of Maintenance Assessment Districts through amending the Municipal Code to create a local enabling (procedural) ordinance which also includes specific provisions for management of MADs.

In reviewing the Municipal Code, staff also determined that certain items were best addressed via Council Policy which provides greater flexibility in updating budgeting and management practices for self-managed Maintenance Assessment Districts as needs and circumstances change. Additionally, over the last few years there have been a variety of discussions about best practices for management of Maintenance Assessment Districts by nonprofit organizations. A separate report has been prepared concerning proposed amendments to Council Policy 100-21 (Funding for Maintenance Assessment District Formation) to incorporate elements of the update not captured in the proposed Municipal code amendments.

### Overview of MADs

Maintenance Assessment Districts (MADs) are special assessment districts where property owners pay assessments to fund enhanced improvements and activities, in their neighborhood or community, which confer Special Benefits on those assessed. These improvements and activities are beyond those generally provided by the City as a General Benefit.

Support for forming a MAD is often initiated by a developer, during the development of a new community, or by property owners within an already-developed community. Property owners may also indicate an interest in having the MAD managed by a non-profit which represents the property owners. However, the City is ultimately responsible for establishing a MAD and for the appropriate use of MAD assessments, therefore, the formation process and management of MADs requires procedures and guidelines as proposed in these amendments to the San Diego Municipal Code.

### Enabling Legislation

These amendments will create a local enabling (procedural) ordinance for establishing MADs. Previously the City has alternated between using a local ordinance and relying on state legislation (“Landscape and Lighting Act of 1972” - Streets and Highways Code §22500 et seq.). Now City staff recommends that City Council replace the existing Municipal Code provisions in their entirety with the proposed amendments for a local procedural ordinance for establishing MADs. Please note that formation of MADs must still follow applicable provisions of “Proposition 218” (Article XIID of the California Constitution).

### Major changes

Definitions have been standardized to be consistent with other assessment districts such as Property and Business Improvement Districts (PBIDs) and clarification has been provided regarding “Administrative Expenses” so there is consistency between self-managed and City-managed MADs. A definition has been added for “Owners’ Association” to clarify that the entity is a private entity consistent with PBID and TMD but require compliance with Brown Act for all MAD business. Other changes were made as needed for the amendments.

The amendments provide a clearer process for formation including the petition requirements and the crafting of the required Assessment Engineer’s Report [Report].

For example, with regards to petitions, the petition for a particular proposed MAD must include a boundary map with general summary of cost estimates and types of improvements and activities for that MAD. The petitions are submitted to the City to provide proof of property owner support for the proposed MAD. The required percentage of petition support depends on whether City funding is being sought for the formation process. When seeking to use City funds for formation, petitions in support must be submitted from 30% of the total number of parcels (unweighted) anticipated to be included in the district. When City funds are not needed, then support must be documented for 20% of the total number of parcels (unweighted). Then, during the creation of the Report, the boundaries may be modified but only as long as the modified boundaries don’t reduce the number of supporters to below 20% of petitioners.

With regards to the Assessment Engineering, the City shall assign the Assessment Engineer (not the community) who shall be required to ensure that the Report meets the requirements of Proposition 218.

The Resolution of Intention shall include provisions for noticing the required Public Hearing consistent with Proposition 218 Districts (Cal Govt. Code §53753).

Then upon establishment through adoption of the Resolution of Formation, assessments shall be levied in perpetuity for new districts and the time frame in which the validity of the MAD may be contested is restricted to 30 days after adoption of resolution (like PBID).

For existing MADs, during the next annual budget process, the authorization to levy assessments shall be for assessments in perpetuity.

The amendments also include provisions for modifying MADs or zones therein and for district disestablishment.

There are also a number of provisions which address representation of property owners and administration of MADs, particularly self-managed. For example, once established, MAD operations may commence no sooner than six months later to allow time for assessments to be collected by the County and remitted to the City so that the City does not have to float MAD advances and/or operational spending.

An unchanged provision is that where a proposed MAD is generally coterminous with a Community Planning Area, then the respective community planning group is the preferred representative for the property owners within the MAD. However, where the boundaries are not coterminous then property owners may establish their own advisory group of designated representatives to speak for the property owners. The community planning group may also designate a committee in lieu of the planning group as the advisory representatives.

The proposed amendments also address the situation where the City may decide to contract with an owners' association for administration of the MAD. In this situation, the associated agreement is not subject to the City's procurement procedures as specified in Chapter 2, Article 2, Divisions 30 and 32 of the Municipal Code. However, the owners' association must still indemnify, defend, and hold the City free and harmless and obtain and maintain comprehensive insurance including public liability and workers compensation.

Currently, the owners association cannot have a financial interest in any agreements executed by the board for MAD-related goods and services (including improvements), however, it is proposed that the provision will now also encompass board members. Generally, procurement of goods and services for administration of MADs shall adhere to City procurement procedures though thresholds may be lowered, and prices may be required in writing.

The Municipal Code also clarifies annual meeting and budget submittal requirements. Accounting records and audited financial statements are still required but now must include advances and program income and document how program income offsets the use of MAD or

City funds. Also, an Annual Report rather than an Assessment Engineer's Report shall be submitted annually to Council for budgeting purposes.

The agreement may not exceed five (5) years and must still include a provision allowing for termination for convenience upon 30 days written notice.

The requirements for meetings between City and Property Owners and, if applicable, owners' associations are set at a minimum of one noticed meeting though more may be required for self-managed MADs.

Also, property owners may request a change of administrator by petition of 50% or more of all parcels (unweighted).

Generally, most of the provisions pertaining to delinquent payments, waivers, liens, and sales of property are proposed to be eliminated from the Municipal Code and to be required in the Resolution of Formation.

Staff believes that implementing the proposed provisions in conjunction with the proposed amendments to Council Policy 100-21 will provide clarity on MAD formation and management requirements.

We encourage Committee chairs to share these proposed changes with their respective Citizen's Advisory Groups. Input from the various groups will be evaluated and considered for future drafts prior to final adoption of changes at City Council.

We appreciate your input as we move forward and will be available to answer questions regarding these proposed changes at the upcoming meetings and via email.

Thank you all for your service to our community.

Paul Sirois, Assistant Deputy Director  
Open Space Division / MAD's  
Park and Recreation Department  
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San Diego, CA 92101  
(619) 685-1307



THE CITY OF SAN DIEGO  
PARK AND RECREATION DEPARTMENT  
OPEN SPACE DIVISION  
TIERRASANTA MAINTENANCE ASSESSMENT DISTRICT

November 4, 2015 Staff Report

**Ongoing Projects/Completed**

- **Tree Trimming** - West Coast Arborists continues to trim trees in various areas of the Open Space.

**Open Space**

- **Open Space Trails Plan** - On October 22, 2015, staff met with Representatives from US Fish and Wild Life, Cal Fish and Wild Life, and walked numerous trails from the trail plan. In the next few weeks, we're anticipating additional comments from them and will be responding.
- **Palm Removal Grant** - The San Diego River Conservancy contacted the City and informed them our grant request had been denied. The Conservancy indicated they want a more comprehensive restoration project with measurable results and ours did not qualify.
- **Helix Environmental Plan Dishwasher Pond** - They currently working on the project and we are expecting them to have the results within the next six weeks.
- **Brush Management** -The Brush Management Unit has completed their scope of work for 2015. They are scheduled to return in March of 2016.
- **Invasive Weed Growth Removal** - Kelly and Associates will be removing invasive weed growth (Fennel, Mustard, and Eucalyptus Sprouts) from the north and east sides of Shepherds Canyon beginning in November.

**Landscape Contract**

- **Treebeard** - continues to provide services within budget.

**Budget**

- **Budget Presentation** - Staff will present the Proposed FY 2017 Budget.

**Miscellaneous.**

- **Road Runner Park** - Treebeard proposal for the enhancement project.

Respectfully submitted,

Bob Smith, Grounds Maintenance  
Open Space Division / MAD's Park and  
Recreation Department  
(619) 685-1370 smithR@sandiego.gov